

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8895 OF 2021

Prashant H. Pimpalkar

... Petitioner

V/s.

Divisional Joint Registrar & Ors.

... Respondents

Dr. Uday Warunjikar a/w. Mr. Siddhesh A. Pilankar for the petitioner.

Mrs. Vaishali S. Nimbalkar, AGP for the State.

**CORAM : G.S.KULKARNI, J.
DATE : 14 December, 2021**

P.C.:

1. Heard Dr. Warunjikar, learned counsel for the petitioner and Ms. Nimbalkar, learned AGP for the State. Respondent nos. 3 to 7 are stated to be served, however, they are not represented. Considering the nature of the order which this Court intends to pass, no prejudice would be caused to the respondents who are not represented.

2. The challenge in this petition is to an order dated 25 August, 2021 passed by the Divisional Joint Registrar of Cooperative Society, Kokan Division, who has vacated an earlier order of stay passed by him on 13 November, 2019, which was to an order dated 11 October, 2019 passed by the Deputy Registrar of Cooperative Societies appointing administrator on the Society of

the petitioner named as Om Kaveri Cooperative Housing Society. Nagindas Pada, Nalasopara (East), Vasai, Dist. Palghar (for short "the said Society").

3. It appears to be not in dispute that the petitioner along with respondent nos. 3 to 7 were elected as members of the Managing Committee of the said Society. Five of the Managing Committee members resigned, one of the Managing Committee Member sold his flat and subsequently other two Managing Committee members also resigned. It thus happened that the petitioner was the only member of the Managing Committee who was left. In such a situation, by an order dated 11 October, 2019 passed by the Deputy Registrar, an administrator Shri Bharat Patil was appointed with a direction that he would take charge of the affairs of the Society including the record.

4. There is some dispute in regard to the record of the Society as informed by Dr. Warunjikar. There was a fire and certain records were destroyed. Some record of the Society was with the members of the Managing Committee as also with the auditors of the Managing Committee. This Court need not delve on such issues, as Dr. Warunjikar would inform that the issue in this regard is subjudice being subject matter of the proceedings before the

Division Bench.

5. Be that as it may, the position is quite clear that today the Society is without a Managing Committee. Also the Deputy Registrar has observed that in these circumstances elections are required to be held. It cannot be forgotten that the period after which the administrator was appointed, there was an outbreak of pandemic and hence immediate steps could not be taken to hold elections, which in the said circumstances ought to have been held. In my opinion, the Deputy Registrar needs to take immediate steps and preferably within a period of one month to set the election programme of the Society in motion. The Deputy Registrar is directed to do so.

6. Insofar as the record of the Society is concerned, Dr. Warunjikar, on instructions of his client who is present in the Court, fairly submits that whatever record is available with his client shall be handed over to the administrator by his client. The members of the Society need to take a fair approach on this aspect. The other Managing Committee members who are having flats and who continue to be members of the Society, in question also ought to cooperate and handover whatever record which are available with them, so that the record can be reconstructed by the

administrator. All this shall be done by the petitioner and other erstwhile Managing Committee members within a period of three weeks from today. It cannot be said that to not make available such record would be in anybody's interest, in fact, it would be a step which would help the new Managing Committee as also the administrator and certainly it would be in the interest of the Society. Dr. Warunjikar also fairly agrees on this issue.

7. In the aforesaid circumstances, the petition does not require further adjudication, as it is expected that the Deputy Registrar shall take steps to declare elections which be done in accordance with law. All contentions of the parties in other pending proceedings are expressly kept open. The petitioner is directed to approach the Divisional Joint Registrar with this order so that further order including disposing of the appeal of the petitioner can be passed. The Divisional Joint Registrar shall make an endeavour to dispose of the appeal in view of the above observations on the adjourned date itself.

8. Disposed of in the above terms. No costs.

(G.S.KULKARNI, J.)